

Honorable Robert S. Lasnik

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON**

JAMIE SCATENA, a single woman,

Plaintiff,

v.

UNITED AIR LINES, INC., a foreign  
corporation, a subsidiary of UAL  
CORPORATION; UAL CORPORATION, a  
foreign corporation; AIRBUS AMERICAS,  
INC., a foreign corporation; AIRBUS SAS, a  
foreign business entity; EUROPEAN  
AERONAUTICAL DEFENCE & SPACE  
CO., aka EADS, a foreign business entity;  
AND JOHN DOES 1-10 and JOHN DOE  
COMPANIES/ CORPORATIONS 11-18,  
community composed thereof,

Defendants.

NO: CV09-1429RSL

**STIPULATED MOTION TO  
CONSOLIDATE ACTIONS AND  
EXTEND INITIAL DEADLINES**

**NOTED FOR CONSIDERATION:  
NOVEMBER 23, 2009**

Pursuant to Fed. R. Civ. P. 42(a)(2), Plaintiff Jamie Scatena and Marc and Kim Shannon, Plaintiffs in *Shannon v. United Airlines, et al*, USDC WDWA No. CV09-1430RAJ, together with defendants United Airlines and UAL Corporation, respectfully request an order consolidating these actions and extending this Court's initial scheduling order deadlines by ninety days. The parties are amenable to proceeding before either Judge Lasnik or Judge

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EXTEND INITIAL DEADLINES  
(No. CV09-1429RSL)- 1

LAW OFFICES OF  
**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
SEATTLE, WASHINGTON 98104-1064  
TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

1 Jones and bring this motion before Judge Lasnik as this case, *Scatena v. United Airlines, et*  
2 *al*, is the first to which an initial scheduling order applies.

3 The moving parties have conferred regarding this stipulated motion and have agreed  
4 that consolidation of these cases is in the best interest of the parties and will promote judicial  
5 economy because Plaintiffs' claims arise out of the same event. The parties further agree that  
6 an initial period to conduct informal discovery toward the possible resolution of the claims is  
7 warranted and, therefore, respectfully request the Court extend its initial scheduling order  
8 deadlines by ninety days. This period of informal discovery will also facilitate service upon  
9 the remaining defendants so that all named parties can be subject to and have sufficient time  
10 to meet the court's scheduling order deadlines.

#### 11 I. FACTUAL BACKGROUND

12 These lawsuits arose out of United Airlines' Flight 628 from Seattle to Chicago on  
13 October 9, 2007. Plaintiff Jamie Scatena (CV09-1429RSL) and Plaintiff Marc Shannon  
14 (CV09-1430RAJ) both claim personal injuries as a result of a runway excursion that occurred  
15 after United Flight 628 landed at O'Hare International Airport. Plaintiff Kim Shannon was  
16 not a passenger on Flight 628 but claims loss of consortium damages associated with her  
17 husband Mark Shannon's alleged injuries. The law firm of Krutch Lindell represents all  
18 three plaintiffs and their respective complaints are substantively identical. There is no  
19 dispute that Ms. Scatena and Mr. Shannon were both passengers on Flight 628. Although  
20 their damages claims are distinct, their claims arise from the same event.

21  
22 The parties also agree, based on discussions regarding the nature and extent of the  
23 claimed injuries, that an initial period of informal discovery may benefit the parties and the  
24 court. Such a period of informal discovery will permit the parties to assess the claims for  
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**MILLS MEYERS SWARTLING**  
1000 SECOND AVENUE, 30TH FLOOR  
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TELEPHONE (206) 382-1000  
FACSIMILE (206) 386-7343

possible early resolution. In addition, the remaining party defendants have not yet been served. A brief extension of these deadlines would permit Plaintiffs sufficient time to effectuate service on all defendants. The initial case scheduling deadlines, if extended, then could be met by all parties simultaneously.

## II. AUTHORITY

### A. Consolidation is Appropriate as the Cases Arise from a Single Event.

Fed. R. Civ. P. 42(a) provides, in pertinent part: “If actions before the court involve a common question of law or fact, the court may: . . . (2) consolidate the actions . . . .” Here, although the damages claims are distinct as to each Plaintiff, the liability claims are all common. By comparison of the Complaints (*Scatena*, Dkt. 4, 7-12; *Shannon*, Dkt. 4, 7-13), the Plaintiffs’ liability claims are identical. The Plaintiffs are all represented by the same law firm and each may be a witness in the other’s case. Furthermore, the Plaintiffs and the Defendants who have appeared agree that consolidation of these actions will avoid unnecessary costs, delays, duplication of efforts, and will reduce the possibility of inconsistent outcomes. Accordingly, the parties respectfully request the Court order that these cases be consolidated before either Judge Lasnik or Judge Jones, with the appropriate case transferred pursuant to GR 8(b).

As of the filing of this agreed motion, the remaining defendants have not yet been served with either complaint. The parties agree, and therefore request, that the Court permit a consolidated complaint to be filed and that Plaintiffs be permitted to serve the consolidated complaint upon the remaining defendants. The original date of filing of the complaints in Washington State Superior Court, August 28, 2009, would remain the date of inception of the case.

1        **B.     A Brief Extension of the Scheduling Order Deadlines is Warranted.**

2                This Court issued an Order Regarding Initial Disclosures, Joint Status Report, and  
 3        Early Settlement on October 22, 2009 in *Scatena v. United Airlines, et al.* (Case No. CV09-  
 4        1429RSL), Dkt. 9.<sup>1</sup> Counsel for Plaintiffs and Defendants United Airlines and UAL  
 5        Corporation conferred regarding the potential benefits of proceeding with a short, initial  
 6        period of informal discovery so that the parties could explore early resolution of the case.  
 7        Specifically, Plaintiffs have agreed to provide medical information related to their damages  
 8        claims so that the Defendants can have an opportunity to assess their claims before engaging  
 9        in what the parties expect will be costly investigation and discovery.

10              The liability issues include claims related to the design of and warnings and  
 11        instructions associated with component parts in the main landing gear on the Airbus 320-200.  
 12        Discovery related to these claims likely will include engineering documents and witnesses  
 13        located in France as well as maintenance and engineering documents and witnesses from  
 14        United Airlines, headquartered in Chicago, and United's maintenance contractor, TIMCO,  
 15        located in Florida. In addition, the case will require expert evaluation of the flight crew's  
 16        actions relative to the standard of care applicable to 14 CFR Part 121 air carrier operations.  
 17        An early evaluation of the damages claims, if such an effort results in resolution of the case,  
 18        will preserve the parties' and the Court's resources in a complex case.

19              To that end, the parties agree and respectfully request that the Court extend the  
 20        deadlines in the Order Regarding Initial Disclosures, Joint Status Report, and Early  
 21        Settlement, Dkt. 9 (*Scatena*) as follows:

22  
 23        \_\_\_\_\_  
 24        <sup>1</sup> After the parties' initial conference, Judge Jones issued an initial scheduling order in the *Shannon* case. Dkt. 9  
 25        (CV09-1430RAJ). The dates in Judge Jones' order are FRCP 26(f) conference, 12/18/2009, Initial Disclosures,  
 26        12/28/2009, and Joint Status Report and Discovery Plan, 01/04/2009.  
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Deadline for FRCP 26(f) Conference: February 19, 2010

Initial Disclosures Due: February 26, 2010

Joint Status Report/Discovery Plan: March 3, 2010

This adjusted schedule will also allow plaintiffs to serve and thereby join the remaining named defendants so that all parties simultaneously can participate in the FRCP 26(f) and Local Rule CR 16 processes.

### III. CONCLUSION

For the reasons stated above, the parties respectfully request the Court, at its discretion, transfer (or receive as transferred) the appropriate case pursuant to GR 8(b) and consolidate cases No. CV09-1429RSL and No. CV09-1430RAJ pursuant to Fed. R. Civ. P. 42(a)(2). The parties further request a ninety day extension of the case scheduling deadlines in this Court's October 22, 2009 scheduling order, Dkt. 9, to facilitate the early evaluation and potential resolution of the claims.

Respectfully submitted this 23rd day of November 2009.

KRUTCH, LINDELL, BINGHAM, JONES &  
PETRIE  
Attorneys for Plaintiffs

MILLS MEYERS SWARTLING  
Attorneys for Defendants United Airlines and  
UAL Corporation

By: s/Kerry V. Kovarik  
(approval given via electronic mail)  
Jeffrey C. Jones  
WSBA No. 7670  
Email: [jcj@krutchlindell.com](mailto:jcj@krutchlindell.com)  
Kerry V. Kovarik  
WSBA No. 40831  
Email: [kvk@krutchlindell.com](mailto:kvk@krutchlindell.com)

By: s/Caryn Geraghty Jorgensen  
WSBA No. 27514  
Email: [cjorgensen@mms-seattle.com](mailto:cjorgensen@mms-seattle.com)  
Geoffrey M. Grindeland  
WSBA No. 35798  
Email: [ggrindeland@mms-seattle.com](mailto:ggrindeland@mms-seattle.com)